

VOTING SYSTEM APPROVAL PROCESS IN INDIANA

1. **Vendor Takes Voting System to Laboratory for Testing:** The process starts when a voting system vendor develops a new voting system, or wants to make a change to a currently approved voting system.

State law requires that a new or changed voting system be tested by a federally-accredited laboratory (an “independent testing authority” or “ITA”) to determine if a voting system complies with voting system standards. Under Indiana law, a voting system can only receive state approval if the ITA determines that the voting system complies with the 2002 federal Voting System Standards. IC 3-11-7.5-2; 3-11-15-13.3; 3-11-7-12; 3-11-7.5-4. *The Election Assistance Commission has adopted 2005 Voluntary Voting System Guidelines. ITAs are testing new applications for compliance with 2005 standards.*

2. **Laboratory Issues Testing Report to Vendor:** The testing process conducted by the ITA requires the vendor to provide extensive documentation to the ITA. The vendor may also be required to resubmit voting system components to the laboratory if problems are discovered during testing. When testing is completed, the laboratory issues a detailed report concerning the voting system to the vendor.
3. **Vendor Files Application for Voting System Approval with State:** The vendor must file an application for voting system approval with the Indiana Election Division when the vendor has all of the information and documents required for the state-prescribed application. The vendor must submit the ITA’s report with the application, and provide proof that it has escrowed voting system firmware and software with a third-party escrow agent.
4. **Indiana Election Division Evaluates the Application:** Once the application is submitted for the approval of a new voting system or a voting system change, the Indiana Election Division evaluates the application and reports that evaluation to the Indiana Election Commission. IC 3-11-7-15; IC 3-11-7.5-5

The Secretary of State is authorized to enter into a contract with a person or entity to assist the Commission in evaluating voting system approval applications pursuant to the Voting System Oversight Program (VSTOP). IC 3-11-16

5. **Indiana Election Commission Considers the Application:** The Commission must table any voting system application that is incomplete. IC 3-15-7-7(b). State law specifically requires a vendor to file the report from an ITA demonstrating compliance with the voting system standards *before the application may be considered by the Commission*. IC 3-15-7-7(b)

The Commission may **dismiss the application** if the vendor does not vigorously and continuously seek approval of its application by promptly responding to questions from the Commission or Election Division. IC 3-11-15-9

6. **Indiana Election Commission Approves the Application:** The Commission must approve a ballot card or direct record electronic voting system before it may be used in an election in Indiana. See 3-11-7-1 and 3-11-7.5-1. A vendor that *markets, sells, leases, installs, implements, or permits the use* of a voting system that has not been approved by the Commission is subject to penalties. IC 3-11-7-19(f); IC 3-11-7.5-28(f); IC 3-11-17
7. **Vendor Receives Voting System Certification:** Once a voting system has met all the requirements of Indiana law and has been approved by the Commission the vendor may thereafter market, sell, lease, install, implements, or permits the use of the voting system in Indiana. The Indiana Election Division Co-Directors issue a letter to the voting system vendor documenting Election Commission approval and providing information regarding when the voting system approval expires.

After a voting system has been approved by the Commission, a vendor may not market, sell, lease, install, or implement any proposed improvement or change to the voting system without the Commission's approval. IC 3-11-7-15; 3-11-7.5-5.

Voting system approvals run for a uniform term, which begins on October 1 of the year following a presidential election and ends four years later. However, if a voting system is approved "mid-term", its approval is for a shorter period, and still expires on the October 1 date. Therefore, the certification of all voting systems currently approved for marketing, sale, lease, installation, implementation or use in Indiana will expire October 1, 2009.

A vendor that wishes to market, sell, lease, install, implement or use a voting system after October 1, 2009 is required to obtain the approval of the Indiana Election Commission for the next approval period (2009 through 2013).

8. **Grandfathered Voting Systems:** Under current law (IC 3-11-15-13.3(b)) even though a vendor may not be able to market, sell or lease a voting system because the Commission's approval for that voting system has expired, a county may still be able to use the voting system if the voting system was:
- a. approved by the Commission for use in elections in Indiana before October 1, 2005; and
 - b. purchased by the county before October 1, 2005; and
 - c. otherwise complies with the applicable provisions of HAVA and this article.
9. **Reexamination of Voting System:** The Commission can examine any previously certified voting system for compliance with legal requirements. If the system does not comply with these requirements, the Commission may rescind approval of the vendor and prohibit the lease, marketing or sale of the voting system. IC 3-11-7-17; IC 3-11-7.5-26